

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**Patricia Forbes, Individually  
And on Behalf of all the Wrongful  
Death Beneficiaries of Rafael Forbes,  
Deceased**

**Plaintiff**

**Vs.**

**Cause No. 3:09 cv 423 HTW-LRA**

**The City of Jackson, Mississippi;  
TASER International, Inc.;  
John Doe Corporations, 1-5; and,  
John Does, 1-5**

**Defendants**

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**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR AN  
EXTENSION OF THE AMENDED SCHEDULING ORDER DEADLINES, OR IN  
THE ALTERNATIVE, MOTION TO WITHDRAW AS COUNSEL**

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**COMES NOW** the Plaintiff, Patricia Forbes (hereinafter referred to as "Plaintiff"), by and through her undersigned counsel, and files this her Memorandum in Support of Motion for an Extension of the Amended Scheduling Order Deadlines, or in the Alternative, Motion to Withdraw as Counsel in the above-styled action. In support thereof, Plaintiff will show unto the Court the following:

**I. Statement of Relevant Facts and Procedural Background**

1. Defendant TASER filed its Answer to Plaintiff's Amended Complaint on or about January 19, 2010.

2. Since the filing of Defendant TASER's Answer, only approximately (90) ninety days have passed and the Plaintiff has not had enough time to fully

develop and outline her claims for liability and for damages given the timelines imposed by the Court.

3. Plaintiff's experts have advised that they cannot meet the April 19, 2010 scheduling order deadline due to their own busy schedules, spring break (three are full-time or adjunct professors, or physicians), and other intervening circumstances that have prevented them from accurately and thoroughly prepare their expert reports.

4. Plaintiff's counsel had a trial set for April 12, 2010 in Memphis, Tennessee which was continued only on April 9, 2010, the Friday before trial.

5. On information and belief, Plaintiff's counsel has newly discovered evidence that the decedent received a violent physical assault by the police officers just after he was tasered. This has recently been confirmed by two eyewitnesses.<sup>1</sup>

6. The combination of the Taser shock and the physical assault by the police officers may have caused and/or contributed to the death of Rafael Forbes.

7. Plaintiff's counsel has turned this information over to Dr. Coleman Pratt and Professor James Bell, but neither he nor Professor James Bell have an adequate amount of time to conduct a full medical analysis and also a full review of the materials provided to them for review to provide us with an expert report within the deadlines imposed by the Court, being April 19, 2010.

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<sup>1</sup> Pearlie Atkinson and her boyfriend at the time both witnessed this incident.

8. This case involves complex matters of causation which the court should take into consideration in extending more time for the Plaintiff to develop her case.

9. Plaintiff's counsel has moved the Court, in the alternative, to allow them to withdraw as her attorneys of record so that Plaintiff may find alternative counsel within ninety (90) days.

## **II. Argument**

The court is allowed sound discretion in matters of pre-trial case management. L.U. Civ. R. 72 (d) states the following:

Referral to Magistrate Judge. Pretrial motions in civil actions are hereby referred to a magistrate judge for hearing and determination, subject to the following exceptions: motions for injunctive relief; motions to remand; motions for judgment on the pleadings; motions for summary judgment; motions to dismiss or to permit maintenance of a class action; motions to dismiss for failure to state a claim upon which relief can be granted; motions to involuntarily dismiss an action; motions *in limine* regarding evidentiary matters; and motions affecting the rulings on dispositive motions (e.g., motions to amend) pending before a district judge. Upon entry of a pretrial order, all motions thereafter served must be submitted to the assigned trial judge.

In *United States v. Nicholson*, 983 F.2d 983, 988 (10th Cir.1993) ("District courts generally are afforded great discretion regarding trial procedure applications (including control of the docket and parties, and their decisions are reviewed only for abuse of discretion.").The Court confirms the discretion and

latitude of local District Courts in matters involving discovery or other pre-trial matters.

### **III. Conclusion**

This Court should grant an extension of scheduling deadlines and enter a new Scheduling Order allowing Plaintiff and all parties a reasonable amount of time in which to conduct on-going discovery and to file final Expert Designations and Reports in this matter, or in the alternative, allow counsel for the Plaintiff Patricia Forbes to withdraw as counsel and to grant her an additional (90) ninety days in order for her to find alternate counsel for representation.

**Respectfully Submitted,  
Patricia Forbes**

BY: s:/Halbert E. Dockins Jr., Esq.  
**Halbert E. Dockins Jr., MSB# 6138**  
**One of the Attorneys for Plaintiff**

Of Counsel:

**Dockins Turnage & Banks, PLLC**  
**6520 Dogwood View Parkway,**  
**Suite B**  
**Jackson, Mississippi**  
**Phone (601) 713-2223**  
**Fax (601) 713-2225**  
**Email: [www.loohd.com](http://www.loohd.com)**

### **CERTIFICATE OF SERVICE**

I, Halbert E. Dockins Jr., hereby certify that a true and correct copy of the foregoing Memorandum in Support of Motion has been served electronically via the ECF system to the following:

Claire Barker Harkins, Esq.

Office of the City Attorney  
455 East Capitol St.  
Jackson, MS 39207

**Counsel for Defendant City of Jackson**

David Goff, Esq.  
DEUTSCH, KERRIGAN & STILES, L.L.P.  
2510 14<sup>th</sup> Street, Suite 1001  
Gulfport, Mississippi 39501

Michael Brave, Esq.  
17800 N. 85<sup>th</sup> St.  
Scottsdale, AZ 85255

John Jerry Glas, Esq.  
DEUTSCH, KERRIGAN & STILES, L.L.P.  
755 Magazine St.  
New Orleans, LA 70130

**Counsel for Defendant TASER International, Inc.**

This the 16<sup>th</sup> day of April, 2010.

BY: s:/Halbert E. Dockins Jr., Esq.  
**Halbert E. Dockins Jr., MSB# 6138**